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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<b><u>Distribution:</u></b>  ____ All Child Care Evaluator Manual Holders <u>X</u> All Residential Care Evaluator Manual Holders ____ All Evaluator Manual Holders	<b><u>Transmittal No.</u></b> <b>04APX-11</b>
	<b><u>Date Issued</u></b>  December 2004

**Subject:**

2004 Chaptered Legislation

Appendix A – Adult Community Care Facilities and Residential Care Facilities for the Chronically Ill

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**Reason For Change:**

This transmits summaries of legislation chaptered in 2004 affecting Adult Community Care Facilities and Residential Care Facilities for the Chronically Ill. The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document became operative on January 1, 2005.

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**Filing Instructions:**

REMOVE –

INSERT – the attached pages into Appendix A. Do not remove similar documents from the previous years.

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**Approved:**

*Original signed by B. Rooney*

*on 12/31/04*

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BARBARA ROONEY, Chief  
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# **SUMMARY AND IMPLEMENTATION PLANS 2004 CHAPTERED LEGISLATION**

## **ADULT RESIDENTIAL FACILITIES AND RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL**

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### ***ACTION REQUIRED***

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### ***INFORMATION ONLY – NO ACTION REQUIRED***

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**Unless otherwise noted, all new legislation becomes effective on January 1, 2005. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.**

# **ACTION REQUIRED**

## **AB 1240 (MULLIN), CHAPTER 653, STATUTES OF 2004**

**Affects:** All state and county licensed facilities

**Subject:** Civil Penalty Increase for Background Check Violations

### **Summary:**

Amendments to Health and Safety Code Sections 1522, 1568.09, 1569.17, and 1596.871 increase an existing civil penalty for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in a licensed facility. The existing, immediate \$100 per individual civil penalty has been increased to an immediate \$100 per day civil penalty, for a maximum of 5 days for the first violation and a maximum of 30 days for subsequent violations.

### **Implementation:**

These statute changes are effective immediately and licensing staff shall implement as follows:

- Prior to each licensing visit, review the facility file for any citations for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in the facility and, as is current practice, query the LIS for a list of all persons currently associated to the facility.
- At the licensing visit, if there is a person(s) (who is subject to a background check) working or residing in the facility who does not have a clearance or a criminal record exemption:
  1. Determine how long the individual has been working or residing at the facility.
  2. Cite the deficiency.
  3. Assess immediate civil penalty for the number of days that you can substantiate the individual worked or resided in the facility, up to a maximum of 5 days.
- If the licensee has been cited for this type of violation within the last 12 months, the civil penalty may continue at \$100 per day, for a maximum of **30 days**. Follow steps 1 through 3 above.

Regulations will be amended to reflect this change.

NOTE: Nothing above changes the current requirement that the individual must be removed from the facility and cannot return until he/she receives a clearance or a criminal record exemption.

# **ACTION REQUIRED**

## **AB 2127 (Levine), CHAPTER 636, STATUTES OF 2004**

**Affects:**      **Adult Day Programs (ADP)**

**Subject:**     **Alzheimer's Day Care Resource Center Programs**

**Summary:**    This legislation amends Section 9542 of the Welfare and Institutions Code to require a direct service contractor operating an Alzheimer's day care resource center that was not licensed prior to January 1, 2005 be licensed as either an adult day program or an adult day health care center by January 1, 2008. There are currently five Alzheimer's day care resource centers that were exempt.

The legislation also requires contractors with new programs qualified after January 1, 2005 to apply for a license as either an adult day program or as an adult day health care center, for purposes of operating an Alzheimer's day care resource center. The contract shall be terminated if the contractor surrenders its license or if the license is terminated as a result of noncompliance.

### **Implementation:**

This legislation is self-implementing and an amendment to regulations is unnecessary. The licensing process would follow the requirements of CCR Title 22, Division 6, Chapter 1 and chapters 3 and 3.5 until consolidated.

The workload impact will be minimal. The five Alzheimer's day care resource centers are located in the following cities: Hollister, Monterey, San Jose, Santa Clarita, and Santa Rosa.

## **ACTION REQUIRED**

### **AB 2352 (Jackson), CHAPTER 121, STATUTES OF 2004**

**Affects:** Residential Care Facilities for the Chronically Ill (RCF-CI)

**Subject:** Residential Care Facilities for Persons with Chronic-Life Threatening Illness

**Summary:** This legislation amends Health and Safety Code Section 1568.02 to allow RCF-CI's to accept persons other than HIV and AIDS clients who are terminally ill and need hospice care. The legislation also adds reference to "hospice agency" in those sections that currently refer to "home health agency". In addition, this legislation amends Health and Safety Code Section 1568.01 to add the following definition:

"terminal disease" or "terminal illness" means a medical condition resulting from a prognosis of a life expectancy of one year or less, if the disease follows its normal course.

Effective January 1, 2005, RCF-CI's may accept persons who are terminally ill (as defined) if all of the following conditions are met:

- The person has been diagnosed by their physician or surgeon as terminally ill.
- Prior to admission, the person is receiving hospice services from a hospice agency that is Medicare certified and licensed as a home health or hospice agency.

#### **Implementation:**

If the facility admits a client with a terminal condition other than HIV/AIDS and their medical condition does not meet the statutory definition of "terminal disease or terminal illness" or all of the conditions specified to accept a person with a terminal disease or terminal illness are not met, Licensing Staff should cite the licensee using the appropriate section of the Health and Safety Code Section 1568.01 and/or 1568.02.

Regulations will be amended to conform to statute allowing other than those with HIV disease or AIDS that have a terminal illness to be accepted in RCF-CIs.

## **ACTION REQUIRED**

### **SB 382 (Oller), CHAPTER 120, STATUTES OF 2004**

**Affects:** Group Homes, Adult Residential Facility, Small Family Homes

**Subject:** Preventing Over-Concentration of Residential Care Facilities

**Summary:** This legislation amends section 1520.5 of the Health and Safety Code by clarifying the meaning of “planning authority”. It makes technical, non-substantive changes to existing law that prevents over concentration of residential care facilities in neighborhoods.

**Implementation:** This legislation requires the following: At least 45 days prior to approving any application for a new residential care facility, the director or county licensing agency, shall notify, in writing, the planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility.

Existing law allows that notification of a proposed location of a residential care facility could be given to the city or the county planning authority.

Section 3-0295 of the Evaluator Manual titled “over concentration” will be clarified.

State and County Licensing Staff should, during the licensing orientations and any other contacts with providers, make providers aware of section 1520.5 of the Health and Safety Code.

## **ACTION REQUIRED**

### **SB 1104 (Committee on Budget and Fiscal Review), CHAPTER 229, STATUTES OF 2004**

**Affects:** All Elderly Residential, Community Care (except for Foster Family Homes), and Child Day Care Facilities

**Subject:** Licensing Fees – EFFECTIVE August 16, 2004

**Summary:** This legislation amends among other statutes, Health and Safety Code Sections 1523.1, 1568.05, 1569.185, and 1596.803 to require the Department to increase existing fees and charge new fees for the purpose of financing licensing activities. This emergency legislation became effective when the bill was chaptered on August 16, 2004.

Existing application and annual fees were increased. Change in licensing location fees were increased to 50% of the application fee.

The following new fees were added:

- Corporate Status Change Fee – 50% of the application fee shall be charged when a corporate licensee changes who has the authority to select a majority of the board of directors.
- Capacity Change Fee - \$25 shall be charged when a licensee seeks to either increase or decrease the facility's licensed capacity.
- Orientation Fee - \$25 must be charged to each person attending a department-sponsored family child day care orientation and \$50 per person for all other licensing categories (except Foster Family Homes which continue to have no fee.)
- Probation Monitoring Fee – An amount equal to the annual fee shall be charged for each year a license has been placed on probation as a result of a stipulation and decision and order.
- Late Fee – 50% of the annual fee shall be charge to any licensee who fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.
- Payment Processing (Administrative) Fees - A fee charged to cover any cost incurred by the Department shall be charged for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.
- Plan of Correction Fees - A fee of two hundred dollars (\$200) shall be charged when any licensee does not implement a plan of correction on or before the date specified in the plan.

## **Implementation:**

### Existing Fee Increase

Although the bill is self-enforcing, regulations will be amended to incorporate the new fees. In the interim, licensing staff should follow the applicable section of the Health and Safety Code to assess the **new** amounts for **existing fees** (annual, application, change in licensing location, change in corporate status and change of capacity) charged by the Department. See attached charts that list the new annual and application fees.

Licensing staff should cite the applicable Health and Safety Code if a licensee is assessed an existing fee and fails to submit payment as required.

### New Orientation Fee

Licensing staff should refer to the October 1, 2004, memo from Interim Deputy Director, Martha Mills for orientation fee procedures.

### Additional New Fees

The Department is determining how it will assess and collect payment processing (administrative) fees, late fees, plan of correction fees, and probation monitoring fees.



**Child Day Care Facilities  
Application and Annual Fee Schedule  
Effective August 16, 2004**

**APPLICATION FEES**

<b><u>Family Child Care Homes</u></b>	<b><u>Fee</u></b>
Small (capacity to 8 children)	\$60
Large (capacity of 9 to 14 children)	\$115

<b><u>Child Care Centers</u></b>	
<b><u>Capacity</u></b>	<b><u>Fee</u></b>
1 – 30	\$400
31 – 60	\$800
61 – 75	\$1,000
76 – 90	\$1,200
91 – 120	\$1,600
121+	\$2,000

**ANNUAL FEES**

<b><u>Family Child Care Homes</u></b>	<b><u>Fee</u></b>
Small (capacity to 8 children)	\$60
Large (capacity of 9 to 14 children)	\$115

<b><u>Child Care Centers</u></b>	
<b><u>Capacity</u></b>	<b><u>Fee</u></b>
1 – 30	\$200
31 – 60	\$400
61 – 75	\$500
76 – 90	\$600
91 – 120	\$800
121+	\$1,000

## **Residential Facilities – Application Fee Schedule** **Effective August 16, 2004**

**All Elderly and Community Care Residential Facilities (ARF, RCFE, GH, SFH, SRF, CTF, THPP) except Foster Family Homes which have no fee.**

<b><u>Capacity</u></b>	<b><u>Fee</u></b>
1 – 3	\$375
4 – 6	\$750
7 – 15	\$1,126
16 – 30	\$1,500
31 – 49	\$1,876
50 – 74	\$2,252
75 – 100	\$2,628
101 – 150	\$3,004
151 – 200	\$3,502
201 – 250	\$4,000
251 – 300	\$4,500
301 – 350	\$5,000
351 – 400	\$5,500
401 – 500	\$6,500
501 – 600	\$7,500
601 – 700	\$8,500
701+	\$10,000

### **Adult Day Programs**

1 – 15	\$150
16 – 30	\$250
31 – 60	\$500
61 – 75	\$626
76 – 90	\$750
91 – 120	\$1,000
121+	\$1,250

**Foster Family and Adoption Agencies:** \$2,500

### **Residential Care Facility for the Chronically III (RCFCI)**

1 -6	\$500
7-15	\$626
16-25	\$750
26-50	\$876
51+	\$876

## Residential Facilities – Annual Fee Schedule Effective August 16, 2004

**All Residential Facilities except Foster Family Homes which have no fee (ARF, RCFE, GH, SFH, SRF, CTF, THPP)**

<b><u>Capacity</u></b>	<b><u>Fee</u></b>
1 – 6	\$375
7 – 15	\$563
16 – 30	\$750
31 – 49	\$938
50 – 74	\$1,126
75 – 100	\$1,314
101 – 150	\$1,502
151 – 200	\$1,751
201 – 250	\$2,000
251 – 300	\$2,250
301 – 350	\$2,500
351 – 400	\$2,750
401 – 500	\$3,250
501 – 600	\$3,750
601 – 700	\$4,250
701+	\$5,000

### **Adult Day Programs**

1 – 15	\$75
16 – 30	\$125
31 – 60	\$250
61 – 75	\$313
76 – 90	\$375
91 – 120	\$500
121+	\$625

**Foster Family and Adoption Agencies:** \$1,250 (plus \$80 for each home certified by the FFA)

### **Residential Care Facility for the Chronically III (RCFCI)**

1-6	\$250 plus \$10 per bed
7-15	\$313 plus \$10 per bed
16-25	\$375 plus \$10 per bed
26-50	\$438 plus \$10 per bed
51+	\$438 plus \$10 per bed

## INFORMATION ONLY – NO ACTION REQUIRED

### **AB 2629 (Salinas) CHAPTER 660, STATUTES OF 2004**

**Affects:** Adult Residential Facilities (ARF) and Social Rehabilitation Facilities (SRF) that provide care to adult clients with mental illness

**Subject:** Community Care Facilities: Mentally Ill Clients

**Summary:** This legislation adds Health and Safety Code Section 1566.75 to require the Community Care Licensing Division, by January 1, 2006, to enter into memoranda of understanding with up to 10 local mental health departments that volunteer to participate.

Each MOU would be required to outline a formal protocol to address the following relating to ARFs and SRFs:

- Shared responsibilities
- Monitoring responsibilities
- Facility closures
- Training
- A process for mediation of disputes between the local mental health authority and the CCLD local licensing offices

The bill would also require CDSS to transmit a copy of each MOU that has been signed to the Legislature on or before January 31, 2006.

The Adult Program will begin negotiating the MOUs.